

SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON

ORDINANCE NO. 10-024

RELATING TO REGULATION OF LOW IMPACT DEVELOPMENT; REPEALING
CHAPTER 30.63C SCC; ADOPTING A NEW CHAPTER 30.63C SCC; AND
AMENDING SECTIONS OF TITLE 30 SCC

WHEREAS, the Federal Water Pollution Control Act (Clean Water Act (CWA))
requires states and their local governments to take steps to implement the National
Pollutant Discharge Elimination System (NPDES) permit program; and

WHEREAS, under its administration of the CWA, the Environmental Protection
Agency (EPA) promulgated regulations to control stormwater discharges from municipal
separate storm sewer systems (MS4s) in two groups called Phase I and Phase II; and

WHEREAS, EPA designated Snohomish County as a Phase I municipal
stormwater permittee in 1990 for the purpose of regulating discharge from MS4s under
the NPDES permit program and Washington State's Waste Discharge General Permit
program; and

WHEREAS, chapter 90.48 RCW, the Washington State Water Pollution Control
Act, authorizes the Washington State Department of Ecology (Ecology) to implement
the NPDES permit program at the state level; and

WHEREAS, Ecology issued Snohomish County's Phase I Municipal Stormwater
Permit (NPDES Permit) on July 5, 1995; and

WHEREAS, the county council adopted Amended Ordinance No. 98-055 on
August 3, 1998, enacting drainage development regulations consistent with the initial
NPDES Permit and the goals and policies of the Snohomish County Growth
Management Act Comprehensive Plan (GMACP) General Policy Plan (GPP); and

WHEREAS, Ecology re-issued the county's 1995 NPDES Permit on January 17,
2007, under Phase I Municipal Stormwater Permit No. WAR04-4502; and

WHEREAS, the 2007 NPDES Permit became effective February 16, 2007, and
expires February 15, 2012; and

WHEREAS, the NPDES Permit regulates stormwater that enters into large and
medium MS4s in unincorporated Snohomish County that are owned or operated by the
county and that discharge from such MS4s to surface waters and groundwaters of the
State, as set forth in NPDES Permit special condition S2; and

1 WHEREAS, MS4s include roads with drainage systems, county roads, catch
2 basins, curbs, gutters, ditches, manmade channels and storm drains that are owned or
3 operated by the county; and
4

5 WHEREAS, special condition S4.C of the NPDES Permit requires the county to
6 reduce the discharge of pollutants to the maximum extent practicable (MEP); and
7

8 WHEREAS, special condition S4.D of the NPDES Permit requires the county to
9 use all known, available and reasonable methods of prevention, control and treatment
10 (AKART) to prevent and control pollution to the waters of the State of Washington; and
11

12 WHEREAS, NPDES Permit special condition S5.C.5.a requires the county to
13 design a program to prevent and control the impacts of runoff from new development,
14 redevelopment, and construction activities applicable to both public and private
15 development, including roads; and
16

17 WHEREAS, the program to prevent and control the impacts of runoff from new
18 development, redevelopment and construction activities shall be enforceable; and
19

20 WHEREAS, NPDES Permit special condition S5.C.5.b.i requires that the
21 county's stormwater management regulations comply with the minimum requirements,
22 thresholds, definitions, and adjustment and variance criteria in *Appendix 1 Minimum*
23 *Technical Requirements for New Development and Redevelopment* (Appendix 1) of the
24 NPDES Permit, or provide minimum requirements, thresholds and definitions
25 determined by Ecology to provide equivalent or similar protection of receiving waters
26 and equal or similar levels of pollution control to those required in Appendix 1 of the
27 NPDES Permit; and
28

29 WHEREAS, NPDES Permit special condition S5.C.5.b.ii requires that the
30 county's stormwater management regulations include a site planning process and best
31 management practice (BMP) selection and design criteria to implement the minimum
32 requirements of Appendix 1 of the NPDES Permit. The county may use either the
33 *Washington State Department of Ecology's 2005 Stormwater Management Manual for*
34 *Western Washington* (2005 Ecology Manual) or an equivalent manual approved by
35 Ecology to meet this requirement; and
36

37 WHEREAS, NPDES Permit special condition S5.C.5.b.iii requires that non-
38 structural preventative actions and source reduction approaches such as low impact
39 development (LID) techniques be allowed to minimize the creation of impervious
40 surfaces to minimize the disturbance of soils and vegetation; and
41

42 WHEREAS, following litigation over the NPDES Permit before the Pollution
43 Control Hearings Board, the NPDES Permit was modified to require in special condition
44 S5.C.5.b.iii(2) that the county's stormwater management program require non-structural

1 preventative actions and source reduction approaches including LID techniques to
2 minimize the disturbance of soils and vegetation where feasible; and
3

4 WHEREAS, Ecology has initiated a process to define the scope of LID
5 techniques to be considered, criteria for determining the feasibility of LID techniques,
6 and a LID performance standard; and
7

8 WHEREAS, when Ecology's process is complete, Ecology will incorporate the
9 results and a deadline for implementation of special condition S5.C.5.b.iii(2) into the
10 NPDES Permit through a permit modification; and
11

12 WHEREAS, Snohomish County's stormwater regulations and standards must be
13 updated to comply with the NPDES Permit; and
14

15 WHEREAS, it is necessary to repeal chapters 30.63A, 30.63B and 30.63C SCC
16 (Drainage, Grading, and LID) and adopt new chapters 30.63A, 30.63B and 30.63C SCC
17 (Drainage, Land Disturbing Activity, and LID); and
18

19 WHEREAS, NPDES Permit requirements pertaining to site planning, BMP
20 selection and design criteria, and on-site management require the use of site planning
21 principles and BMPs that might be considered LID; and
22

23 WHEREAS, it is necessary to update the Snohomish County Drainage Manual
24 (Drainage Manual) and chapters 1 and 5 of the Engineering Design and Development
25 Standards (EDDS) to comply with the NPDES Permit; and
26

27 WHEREAS, the Drainage Manual and the EDDS are administrative rules
28 promulgated by the Snohomish County Department of Public Works and provide the
29 standards and design details necessary to implement the requirements of chapters
30 30.63A, 30.63B and 30.63C SCC; and
31

32 WHEREAS, the updated Drainage Manual is proposed as an equivalent to the
33 2005 Ecology Manual; and
34

35 WHEREAS, the Drainage Manual has been tailored for consistency with the
36 Snohomish County Code to provide clarity, improve usability and promote permit review
37 efficiencies; and
38

39 WHEREAS, Appendix I-A of Volume I of the revised Snohomish County
40 Drainage Manual contains a list of LID BMPs that Snohomish County has determined
41 currently meets the description of LID. The list includes on-site stormwater
42 management BMPs. All of the LID BMPs on the list can be designed and constructed
43 without the need for a code modification or waiver. This list of LID BMPs serves as a
44 basis for determining whether a project qualifies as LID under chapter 30.63C SCC if a

1 project is "required or designed to use LID BMPs to meet the requirements of chapter
2 30.63A SCC"; and
3

4 WHEREAS, draft stormwater regulation documents were transmitted to Ecology
5 for review on February 13, 2008, in accordance with the NPDES Permit deadline; and
6

7 WHEREAS, Ecology and county staff met to discuss draft submittals on March 1,
8 2008, and April 2, 2008; and
9

10 WHEREAS, Ecology provided general written comments on the draft regulations
11 on May 13, 2008, and provided more specific comments on July 2, 2008; and
12

13 WHEREAS, in accordance with NPDES Permit general condition G-20 Non-
14 Compliance Notification, the county notified Ecology on September 2, 2008, that it
15 would be unable to adopt updated stormwater regulations by the October 23, 2008,
16 deadline specified in Ecology's July 2, 2008, comment letter; and
17

18 WHEREAS, Ecology and county staff had multiple meetings and teleconferences
19 to discuss technical issues and to determine how to incorporate Ecology's comments
20 into final stormwater regulations and standards; and
21

22 WHEREAS, after many teleconferences with Ecology, draft stormwater
23 regulations and standards were transmitted to Ecology on April 24, 2009, in accordance
24 with the deadline specified in the Agreed Order; and
25

26 WHEREAS, on May 6, 2009, Ecology and the county entered into Agreed Order
27 (AO) No. 6688 specifying a schedule and setting a January 29, 2010, deadline for the
28 adoption of compliant stormwater regulations and standards; and
29

30 WHEREAS, due to unexpected Ecology staffing issues, Ecology notified the
31 county that it could not meet the May 29, 2009, review deadline in the Agreed Order;
32 and
33

34 WHEREAS, Ecology submitted written comments on the county's April 24, 2009,
35 submittal on August 31, 2009; and
36

37 WHEREAS, Ecology's comments were clarified and additional technical issues
38 raised by the county were discussed between September and November 2009; and
39

40 WHEREAS, Agreed Order No. 6688 was amended by Agreed Order No. 7295 on
41 January 14, 2010, to provide a new compliance schedule that requires effective
42 stormwater regulations that comply with NPDES Permit by September 30, 2010; and
43

1 WHEREAS, the county implemented a public participation program pursuant to
2 special condition S.5.C.4 of the NPDES Permit, in conjunction with public participation
3 opportunities afforded under the Growth Management Act (GMA), that included
4 opportunities for the public's involvement in the development of the county's stormwater
5 management program and implementation priorities; and
6

7 WHEREAS, a State Environmental Policy Act (SEPA) comprehensive checklist
8 and threshold determination of nonsignificance (DNS) was issued for the proposed non-
9 project actions relating to the stormwater regulations and standards on March 24, 2010,
10 pursuant to chapter 43.21 RCW, chapter 197-11 WAC and chapter 30.61 SCC; and
11

12 WHEREAS, pursuant to RCW 36.70A.106, a notice of intent to adopt the
13 proposed regulations and standards was transmitted to the Washington State
14 Department of Commerce on February 18, 2010; and
15

16 WHEREAS, the planning commission was briefed on the NPDES update
17 proposals on October 23, 2007, February 25, 2008, October 23, 2008, July 22, 2008,
18 February 24, 2009, January 26, 2010, and February 23, 2010; and
19

20 WHEREAS, the planning commission and county council were jointly briefed on
21 the proposed stormwater regulations on July 23, 2009; and
22

23 WHEREAS, the planning commission held a public hearing on the proposed
24 stormwater regulations on March 23, 2010; and
25

26 WHEREAS, the planning commission deliberated on the stormwater regulations
27 on March 23, 2010, and a motion to recommend approval of the stormwater regulations
28 failed; and
29

30 WHEREAS, project briefing memos were frequently provided to the Snohomish
31 County Council Planning and Community Development Committee and this committee
32 was formally briefed on the stormwater regulations update project between 2008 and
33 2010, including September 22, 2007, January 22, March 25, April 14, June 24 and July
34 22 in 2008, and January 29, February 10 and 24, March 27, May 12, and August 11 in
35 2009; and
36

37 WHEREAS, the Snohomish County Council Committee of the Whole was also
38 briefed on June 9, 2008; and
39

40 WHEREAS, the county council was briefed on the planning commission
41 recommendation on May 10, 2010; and
42

1 WHEREAS, the county council held a public hearing on the proposed
2 stormwater regulations on June 9, 2010, to consider the entire record and hear public
3 testimony on Ordinance No. 10- 024; and
4

5 WHEREAS, the county council considered all public testimony on the proposed
6 stormwater regulations prior to deliberating on June 9, 2010.
7

8 NOW, THEREFORE, BE IT ORDAINED:
9

10 Section 1. The foregoing recitals are incorporated by this reference as though
11 set forth in full.
12

13 Section 2. The Snohomish County Council makes the following findings of
14 fact:
15

- 16 A. The proposed LID regulations in chapter 30.63C SCC will facilitate the use of LID
17 BMPs for all of unincorporated Snohomish County, including areas where
18 stormwater is discharged from MS4s, to prevent and control pollution of waters of
19 the State of Washington.
20
- 21 B. Applicants requesting land disturbing activity permits under new chapter 30.63B
22 SCC (Amended Ordinance No. 10-023) will be required to comply with the
23 drainage regulations in new chapter 30.63A SCC (Amended Ordinance No. 10-
24 026), new chapter 30.63C SCC (Ordinance No. 10-024), the Drainage Manual
25 and the EDDS. Together, these regulations will control stormwater runoff from
26 land disturbing activities, including new development and redevelopment.
27
- 28 C. The Drainage Manual and chapter 5 of the EDDS shall be used to comply with
29 the requirements of chapters 30.63A, 30.63B and 30.63C SCC, as applicable.
30 The Snohomish County Drainage Manual (Drainage Manual) is updated to be
31 equivalent to the 2005 Ecology Manual.
32
- 33 D. NPDES Permit special condition S5.C.5.b.iii requires that non-structural
34 preventative actions and source reduction approaches such as LID techniques
35 be allowed to minimize the creation of impervious surfaces to minimize the
36 disturbance of soils and vegetation. LID techniques include "small-scale
37 hydrologic controls" that more closely mimic predevelopment hydrologic
38 functions.
39
- 40 E. The adoption of Amended Ordinance No. 10-026 codifies a stormwater site
41 planning process in chapter 30.63A SCC (Drainage). This process, specifically
42 SCC 30.63A.400 through SCC 30.63A.440, requires non-structural LID site
43 planning principles that will minimize land disturbing activity.
44

- 1 F. NPDES Permit requirements for on-site management requirements proposed in
2 chapter 30.63A SCC (Drainage) in Amended Ordinance No. 10-026 require the
3 use of LID BMPs to manage on-site stormwater.
4
- 5 G. Multiple sections of title 30 SCC that include requirements or recommendations
6 for the use of LID are amended for consistency with the terms and requirements
7 of the updated stormwater regulations. These updates are needed to reflect new
8 regulatory requirements for the use of LID site planning principles and on-site
9 management LID BMPs. All projects that require a land disturbing activity permit
10 under chapter 30.63B SCC and drainage review under chapter 30.63A SCC
11 must incorporate LID; therefore, in at least some aspects, "LID" projects are all
12 projects.
13
- 14 H. Following litigation over the NPDES Permit before the Pollution Control Hearings
15 Board, the NPDES Permit was modified to require in special condition
16 S5.C.5.b.iii(2) that the county's stormwater management program require non-
17 structural preventative actions and source reduction approaches including LID
18 techniques to minimize the disturbance of soils and vegetation where feasible.
19
- 20 I. Ecology has initiated a process to define the scope of LID techniques to be
21 considered, criteria for determining the feasibility of LID technique, and a LID
22 performance standard.
23
- 24 J. When Ecology's process is complete, Ecology will incorporate the results and a
25 deadline for implementation of special condition S5.C.5.b.iii(2) into the NPDES
26 Permit through a permit modification.
27
- 28 K. Upon completion of the modification of the LID requirements in the NPDES
29 Permit, the county will revisit its LID regulations consistent with Ecology's
30 deadline for implementing S5.C.5.b.iii(2). In the meantime, the amendments to
31 the LID provisions in this chapter are intended to repeal the LID chapter for
32 organizational purposes, provide clarity on its purpose and provide support for
33 NPDES Permit special condition S5.C.5.b.iii.
34
- 35 L. The county implemented a Reduced Drainage Discharge Demonstration
36 Program (RDDDP) pursuant to chapter 30.34B SCC. The RDDDP was adopted
37 March 29, 2000, in Amended Ordinance No. 00-004 to promote and evaluate the
38 use of reduced drainage (LID stormwater management) techniques. The RDDDP
39 regulations allowed for the deviation from Snohomish County Code provisions
40 and the EDDS to encourage the use of on-site stormwater management. The
41 RDDDP sunset three years after its initial adoption. By emergency action, the
42 program and regulations were extended until April 10, 2006, by Ordinance No.
43 03-037, adopted on June 28, 2006.
44

- 1 M. Existing chapter 30.63C SCC, added by Amended Ordinance No. 06-044 on
2 June 28, 2006, allowed LID. Chapter 30.63C SCC replaced the RDDDP program
3 with permanent regulations that allowed LID. However, during the adoption of the
4 LID regulations, SCC 30.42B.100(4)(b) was not updated. This provision allowed
5 multiple family structures to be developed in certain zones when a project was
6 accepted into the RDDDP. SCC 30.42B.100(4)(b) would be amended by this
7 ordinance to allow multiple family structures containing three or four dwelling
8 units in the R-7,200, R-8,400 and R-9,600 zones when a planned residential
9 development is designed using LID BMPs.
- 10
- 11 N. SCC 30.63C.010 previously adopted the Low Impact Development Technical
12 Guidance Manual for Puget Sound. The county's new stormwater management
13 regulation program will include adoption of a new Drainage Manual. Appendix 1-
14 A of the Drainage Manual includes the county's LID BMPs. LID related site
15 planning principles are included in the new chapter 30.63A SCC (see Amended
16 Ordinance No. 10-026). Adoption of the Low Impact Development Technical
17 Guidance Manual for Puget Sound is no longer needed due to the requirement to
18 use the new LID site planning and on-site management BMP requirements in
19 chapter 30.63A SCC and LID BMPs in Appendix 1-A of the Drainage Manual.
- 20
- 21 O. Proposed SCC 30.63C.010 states the purpose of chapter 30.63C SCC is to
22 facilitate or require the use of LID BMPs.
- 23
- 24 P. Proposed SCC 30.63C.020 explains that the chapter is applicable to all projects
25 that are required or designed to use LID BMPs to meet the stormwater
26 management requirements in chapter 30.63A SCC. The vesting provision
27 previously codified in SCC 30.63C.030(4) is provided in this section.
- 28
- 29 Q. Proposed SCC 30.63C.025 pertains to projects performed under the authority of
30 the director of the Department of Public Works or the county engineer. This
31 provision is necessary to provide for efficient implementation of the new
32 stormwater regulations.
- 33
- 34 R. Proposed SCC 30.63C.030 identifies which LID BMPs may be used to meet the
35 drainage requirements of chapter 30.63A SCC. The provision also specifies
36 which LID BMPs may be used to obtain stormwater modeling credits consistent
37 with the Drainage Manual.
- 38
- 39 S. Proposed SCC 30.63C.040 regulates the use of LID in the Little Bear Creek
40 Watershed. This code provision is currently in SCC 30.63C.025(1). It is updated
41 to include a reference to LID BMPs for consistency with NPDES Permit
42 requirements and updates to other stormwater regulations in chapters 30.63A
43 and 30.63B SCC. Current SCC 30.63C.025(2) and (3) pertaining to application

processing and PDS's mapping responsibilities are excluded from the new code section because such administrative procedures do not require codification.

- T. Proposed SCC 30.63C.050 requires pre-application meetings for project applications that include the use of LID stormwater modeling credits or if applicants request a code modification or deviation from the EDDS to facilitate the use of LID BMPs in project design. Existing SCC 30.63C.030 requires all LID project applicants, except those submitting single-family residential building permits, to have pre-application submittal meetings. Limiting the requirement for a pre-application meeting to certain types of LID projects is necessary because under the NPDES Permit, all projects that require a land disturbing activity permit under chapter 30.63B SCC require drainage review under chapter 30.63A SCC. Proposed chapter 30.63A SCC (Drainage), in Amended Ordinance No. 10-026), complies with the NPDES Permit in requiring the adoption of a new stormwater site planning process and on-site management BMPs. This process requires the use of LID site planning principles and on-site management BMPs that can be considered "LID." Therefore all projects must incorporate LID and therefore could be considered "LID" projects. The reduction in pre-application meeting requirements will also create permit processing efficiencies.
- U. Proposed SCC 30.63C.050(2) encourages all applicants to use the pre-application process when proposing LID BMPs in a project design. SCC 30.63C.050(3) allows the director of PDS to waive mandatory pre-application meetings upon written request by the applicant if the pre-application meeting would serve no useful purpose. These amendments allow for a more flexible and efficient permit system.
- V. Proposed SCC 30.63C.060 clarifies the general administrative provisions pertaining to code modifications and EDDS deviations. Portions of this section are currently found in SCC 30.63C.030.
- W. Proposed SCC 30.63C.070 clarifies the approval authority for code modifications by the director of PDS and for EDDS deviations by the county engineer. SCC 30.63C.070(2) clarifies requirements currently in SCC 30.63C.030(3) related to conditions for approvals of code modification and EDDS deviation requests.
- X. Proposed SCC 30.63C.080 provides the list of code chapters that may be modified to facilitate the use of LID BMPs. The list updates and reorganizes in numeric order the provisions of existing SCC 30.63C.040. SCC 30.63C.080 also provides code modification approval criteria currently included in SCC 30.63A.040. Chapters 30.63A and 30.63B SCC related to drainage and grading were deleted from the list of chapters that can be modified. Modifications from these chapters are not needed to use LID BMPs. Chapters 30.25 and 30.26 SCC

(Landscaping and Parking) are added to the list to ensure that an applicant has the ability to propose the use of LID BMPs in project site design.

Y. Proposed SCC 30.63C.090 regulates EDDS deviations necessary to facilitate the use of LID BMPs and codifies the approval criteria. This code section is modified for clarity and organization and to reference the EDDS deviation criteria in chapter 1 of the EDDS. This section does not allow deviations from EDDS chapter 5. Pursuant to Appendix 1 of the NPDES Permit, the modification and waiver process in chapter 30.63A SCC must be applied to chapters 30.63A, 30.63B SCC, the Drainage Manual and chapter 5 of the EDDS.

Z. The county developed a comprehensive public participation program to educate and inform the public about the NPDES update project and this ordinance. Public comments have been solicited consistent with the requirements of the GMA and NPDES Permit special condition S5.C.4.

AA. The GMACP-GPP sets forth the following objectives and policies related to stormwater management, which are furthered by the proposed ordinance:

Objective NE 3.H Comply with the county's Phase I Municipal Stormwater Permit issued by the Washington State Department of Ecology pursuant to the Clean Water Act and the National Pollutant Discharge Elimination System (NPDES).

NE Policies

3.H.1 The county shall protect properties and waters from adverse impacts by eliminating illicit discharges and sediment transport, and regulating stormwater and land disturbing activity to reduce the discharges of pollutants and impacts to receiving waters.

3.H.2 The county shall develop inspection and enforcement procedures to prevent water quality degradation.

3.H.3 The county shall adopt programs, development regulations and standards regulating drainage and land disturbing activity that allow or require the use of low impact development techniques and are consistent with the Phase I Municipal Stormwater Permit.

3.H.4 The county shall improve stormwater management permitting procedures to ensure timely review of projects that incorporate low impact development techniques.

1 3.H.5 The county shall adopt comprehensive site planning requirements that
2 minimize land disturbing activity and promote on-site stormwater
3 management on new development and redevelopment project sites.
4

5 3.H.6 The county shall adopt water pollution control requirements intended to
6 ensure that receiving waters, groundwater, and stormwater in
7 Snohomish County meet or exceed state water quality standards.
8

9 Section 3. The county council makes the following conclusions:
10

- 11 A. Proposed chapter 30.63C SCC contains enforceable regulations that will protect
12 the public health, safety, welfare and the environment through the regulation of
13 stormwater runoff as required by federal and state law.
14
- 15 B. Proposed chapter 30.63C SCC LID regulations will support the preservation of
16 water quality for aquatic habitats, recreation, and drinking water.
17
- 18 C. Proposed chapter 30.63C SCC includes regulatory mechanisms and control
19 measures required by special condition S5.C.5 of the NPDES Permit.
20
- 21 D. Proposed chapter 30.63C SCC requirements promote sound, practical, and
22 economical development practices and construction procedures to prevent or
23 minimize impacts to adjoining properties and county waters and reduce the
24 discharge of pollutants to the maximum extent practicable. These regulations
25 permit the use of all known, available and reasonable methods of prevention,
26 control and treatment to prevent and control pollution of waters of the State of
27 Washington.
28
- 29 E. Proposed chapter 30.63C SCC will not result in less restrictive performance
30 standards or objectives than those required by the NPDES Permit.
31
- 32 F. Proposed chapter 30.63C SCC complies with the NPDES Permit.
33
- 34 G. The public participation process implemented for the NPDES Permit code and
35 standard updates has been early and continuous and has complied with all
36 applicable requirements, including but not limited to, RCW 36.70A.140, special
37 condition S5.C.4 of the NPDES Permit, chapter 30.73 SCC and the Snohomish
38 County Charter.
39
- 40 H. The proposed amendments are consistent with the goals and requirements of the
41 GMA and specifically implement GMACP – GPP objectives and policies related
42 to stormwater management.
43

I. The State Environmental Policy Act (SEPA) process conducted for this ordinance satisfies the requirements of chapter 43.21C RCW, as implemented by chapter 197-11 WAC and chapter 30.61 SCC.

J. The county council bases its findings and conclusions on the entire record of the planning commission and the county council, including all testimony and exhibits. Any finding, which should be deemed a conclusion, and any conclusion which should be deemed a finding, is hereby adopted as such.

K. This ordinance provides for the health, safety and general welfare of the citizens of Snohomish County and the environment by regulating stormwater runoff as required by federal and state law.

Section 4. Snohomish County Code Section 30.23.050, adopted by Amended Ordinance No. 08-101 on January 21, 2009, is amended to read:

30.23.050 Height requirements, exceptions and measuring height.

(1) The maximum height of buildings and structures shall be pursuant to the height standards in SCC Table 30.23.030(1) and Table 30.23.030(2), except as provided in SCC 30.23.050(2) and SCC 30.23.050(3).

(2) The following shall be exempt from the maximum height standards:

(a) Tanks and bunkers, church spires, belfries, domes, monuments, chimneys, water towers, fire and hose towers, observation towers, stadiums, smokestacks, flag poles, towers and masts used to support commercial radio and television antennae, bulkheads, water tanks, scenery lofts, cooling towers, grain elevators, gravel and cement tanks and bunkers, and drive-in theater projection screens, provided they are set back at least 50 feet from any adjoining lot line;

(b) Towers and masts used to support private antennas, provided they meet the minimum setback of the zoning district in which they are located, and the horizontal array of the antennae does not intersect the vertical plane of the property line;

(c) Towers, masts or poles supporting electric utility, telephone or other communication lines;

(d) Schools and educational institutions provided that:

(i) The use was approved as part of a conditional use permit;

(ii) A maximum building height of 45 feet is not exceeded; and

(iii) Any portion of any building exceeding the underlying zoning maximum height standard is set back at least 50 feet from all of the site's perimeter lot lines; and

(e) Aircraft hangars located within any industrial zone provided that the hanger is set back at least 100 feet from any non-industrial zone.

(3) Applicants proposing height modifications pursuant to SCC ~~((30.63C.040(1)(a)))~~ 30.63C.080(1)(a) to incorporate low impact development techniques into site design and planning, may exceed the maximum height of the underlying zoning district provided that:

(a) The maximum height is not increased if the property is located in R-9600, R-8400, R-7200, T, LDMR, and MR zones; and the maximum height is not increased by more than 14 feet if the property is located in FS, NB, PCB, CB, GC, IP, BP, LI and HI zones;

(b) The property is located within an urban growth area;

(c) The maximum lot coverage is reduced by one percentage point for each foot of additional height (example: one foot of additional height means a 35 percent maximum lot coverage will be reduced to 34 percent); and

(d) If the zone does not have a maximum lot coverage requirement then at least 40 percent of the site shall contain pervious surfaces.

(4) Building height shall be measured as the vertical distance from the average final grade to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the average height of the highest gable of a pitch or hip roof, subject to the following:

(a) Calculation of the average final grade shall be made by drawing the smallest rectangle possible that encompasses the entire building area as shown in Figure 30.23.050(1) and averaging the elevations at the midpoint of each side of the rectangle; and

(b) Where fill or regrading is proposed at the perimeter of the property that will raise the elevation of a structure above existing grade and where dwelling units are present within 50 feet of the project boundary on any adjoining properties, the average final grade for measuring height of dwellings adjacent to those properties shall not exceed by more than 10 feet the average existing grade of the area of the adjoining property within 50 feet of the abutting lot lines, not to include roads, or public or private rights-of-way. (Figure 30.23.050(2)).

Figure 30.23.050(1)
Calculating average final grade and determining height:

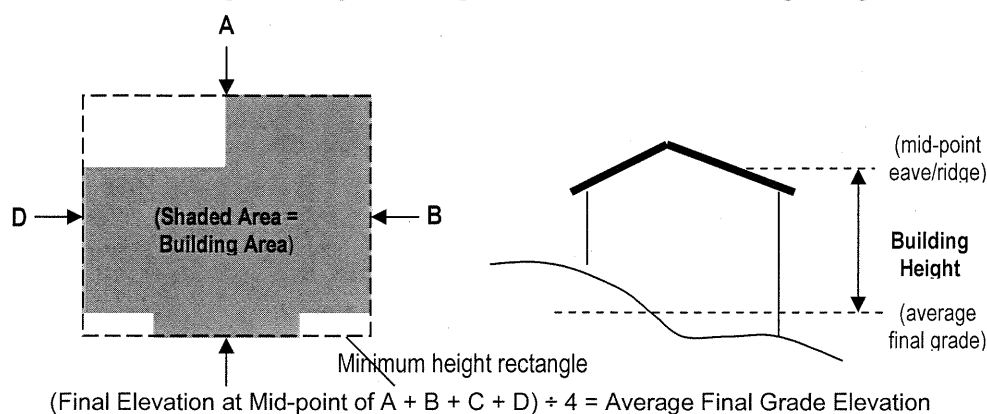
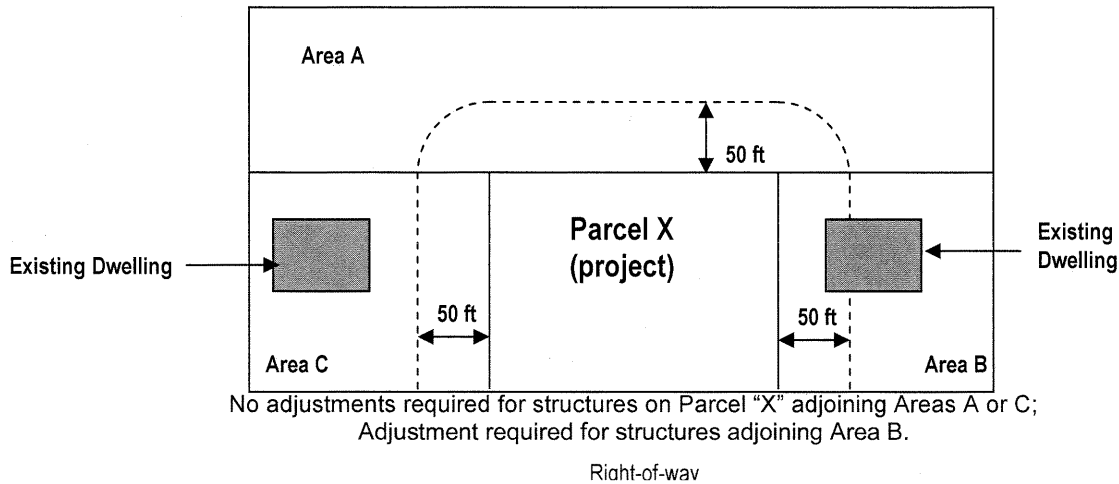


Figure 30.23.050(2)
Adjustments for measuring height
where an adjoining dwelling(s) exists:



(5) The measurement of height under this section does not apply to buildings regulated by the Snohomish County Shoreline Management Master Program, nor does it replace the definitions of height in the construction codes, which are specific to the provisions in those chapters.

Section 5. Snohomish County Code Section 30.41C.050, adopted by Amended Ordinance No. 08-087 on February 4, 2009, is amended to read:

30.41C.050 Site planning principles.

All rural cluster subdivisions and short subdivisions must comply with the following site planning principles to the greatest extent feasible:

(1) The post-development view of the site from the roads should be as similar to the pre-development view as is practical.

(2) Avoid placing lots on ridgelines and other prominent topographic features to blend new development into the existing rural landscape.

(3) Landscaping, using both retention of existing vegetation and new plantings, shall soften and minimize the view of new development and preserve scenic views.

(4) Retain 50 percent of the overall tree canopy on the predevelopment site whenever feasible.

(5) Incorporate existing landscape features and structures into the site design to maintain rural character and the familiar landscape.

(6) Configure the clusters and lots to maintain the natural features of the site and minimize topographic alteration and clearing of existing vegetation.

(7) Avoid uniformity of cluster siting and building sites to provide visual diversity and maintain the dominance of natural features and open space in the rural area.

1 (8) Provide connectivity between open space tracts and natural habitat and wildlife
2 corridors with adjacent properties whenever practical.

3 (9) Use low impact development ((techniques)) site planning principles identified in
4 chapter 30.63A SCC and low impact development best management practices identified
5 in SCC 30.63C.030 to meet the requirements of chapter 30.63A SCC when they are
6 appropriate to the site conditions.

7 (10) Phase clearing and grading plans in accordance with any construction phasing.
8

9 Section 6. Snohomish County Code Section 30.41C.070, adopted by Amended
10 Ordinance No. 08-087 on February 4, 2009, is amended to read:
11

12 **30.41C.070 Site design and development standards - general.**
13

14 The following standards shall apply to all rural cluster subdivisions and short
15 subdivisions:

16 (1) Site design shall be subject to the following standards for clustering and protection
17 of natural resource lands and critical areas:

18 (a) A subdivision may contain more than one cluster of housing lots;

19 (b) The minimum number of residential lots in a cluster shall be 2, except a
20 residential lot may stand alone when an existing residence is maintained;

21 (c) The maximum number of residential lots in a cluster shall be 13;

22 (d) In addition to the minimum front yard setback defined in Table SCC 30.41C.130,
23 the building areas on the plat shall represent residential dwellings and accessory
24 buildings located at varying front yard setback distances to provide a visually diversified
25 streetscape. The minimum variation between setbacks for buildings on adjacent lots
26 shall be 10 feet;

27 (e) Individual clusters shall be located a minimum of 100 feet from adjacent natural
28 resource lands designated in accordance with chapters 30.32A, 30.32B and 30.32C
29 SCC; and

30 (f) Designate and protect critical areas and their buffers pursuant to chapter 30.62A
31 SCC.

32 (2) Tree retention is encouraged on building sites with the approved fire mitigation
33 review in accordance with SCC 30.53A.514.

34 (3) Services and optional development features shall conform to the following
35 standards:

36 (a) Electric, telephone, and other utility lines and support infrastructure shall be
37 located underground;

38 (b) Rural cluster subdivisions or short subdivisions are prohibited from connecting to
39 public sanitary sewers, except when required by the Snohomish County Health District
40 or a state agency to protect public health;

41 (c) When a proposal includes street lights, lighting should be low intensity and shall
42 be projected downward, with full cut-off illumination that shields light from being emitted
43 upwards toward the night sky or surrounding natural areas;

(d) Entrance signs shall incorporate materials typical of the rural character of the area and shall comply with all applicable provisions of SCC 30.27.060; and

(e) Rural cluster subdivisions shall draw water supply from a public water utility when one is available within 1/4 mile of the project site as measured along the existing right-of-way and the water utility is willing and able to provide service to the subdivision at the time of preliminary subdivision approval.

(4) Rural cluster subdivisions shall, when site conditions allow, use the low impact development ((techniques)) best management practices (BMPS) allowed pursuant to SCC 30.63C.030 to meet ((stormwater management standards instead of conventional methods identified in)) the requirements of chapter 30.63A SCC. ((When)) Only when site conditions prevent exclusive use of LID ((techniques)) BMPs may the applicant use conventional stormwater management techniques ~~((contained within chapter 30.63A SCC may be used in conjunction with feasible LID techniques. LID techniques and BMPs submitted for approval under this section shall be consistent with the Puget Sound Action Team's Low Impact Development Technical Guidance Manual for Puget Sound))~~.

Section 7. Snohomish County Code Section 30.42B.100, last amended by Amended Ordinance No. 08-101 on January 21, 2009, is amended to read:

30.42B.100 Design criteria - general.

(1) The design criteria contained in SCC 30.42B.100 through SCC 30.42B.140 are applicable to all PRDs.

(2) Unless specifically modified by this chapter, all requirements of the underlying zone shall apply within the PRD.

(3) PRDs located in the R-7,200, R-8,400, and R-9,600 zones and that are not accompanied by a concurrent subdivision or short subdivision approval, wherein each dwelling unit is to be placed on a single lot, shall be subject to a declaration of condominium pursuant to chapters 64.32 and/or 64.34 RCW. The applicant shall commit to use of the condominium provisions at the time of PRD application.

(4) All housing types listed in the bulk requirements in SCC 30.42B.145 shall be allowed in any PRD in the zones specified in SCC 30.42B.020, except as follows:

(a) Single family dwellings shall not be permitted in the Multiple Residential (MR) zone;

(b) Multifamily dwellings shall not be permitted in the R-7,200, R-8,400 and R-9,600 zones, except that, a multiple family structure containing three or four dwellings units shall be permitted when the PRD is designed utilizing low impact development best management practices pursuant to chapters 30.63A and 30.63C SCC where feasible ~~((accepted in the reduced drainage discharge housing demonstration program of chapter 30.34B SCC, and approved consistent with the provisions of the program))~~; and

(c) Single family dwellings, duplexes, attached single family dwellings, townhouses, and multiple family structures containing three or four dwellings units shall

1 not be permitted in the R-7,200, R-8,400, or R-9,600 zones without concurrent
2 subdivision or short subdivision approval, or condominium approval for all dwelling
3 units.

4 (5) Planned residential developments meeting the applicability thresholds of chapter
5 30.23A SCC shall be subject to the design standards of that chapter.

6 Section 8. Snohomish County Code Section 30.62A.350, last amended by
7 Amended Ordinance No. 06-061 on August 1, 2007, is amended to read:

8
9 **SCC 30.62A.350 Innovative development design.**

10
11 (1) A project permit applicant may request approval of an innovative design, which
12 addresses wetland, fish and wildlife habitat conservation area or buffer treatment in a
13 manner that deviates from the standards contained in Part 300. The applicant shall
14 demonstrate in a critical area study required pursuant to SCC 30.62A.140 how the
15 innovative development design complies with the following requirements:

16 (a) The innovative design will achieve protection equivalent to the treatment of the
17 functions and values of the critical area(s) which would be obtained by applying the
18 standard prescriptive measures contained in this chapter. Proposals offering better
19 protection would also be acceptable;

20 (b) Applicants for innovative designs are encouraged to consider measures
21 prescribed in guidance documents, such as watershed conservation plans or other
22 similar conservation plans, and low impact stormwater management strategies that
23 address wetlands, fish and wildlife habitat conservation area or buffer protection
24 consistent with this section;

25 (c) The innovative design will not be materially detrimental to the public health, safety
26 or welfare or injurious to other properties or improvements located outside of the subject
27 property; and

28 (d) Applicants for innovative designs are encouraged to consider ~~((measures~~
29 ~~prescribed in the PSAT 2005 Technical Guidance Manual for))~~ the use of ((Low Impact
30 Development)) low impact development best management practices ((and)) described
31 in chapter 30.63C SCC.

32 (2) Applicants proposing development activities on properties designated as Urban
33 Center Transit Pedestrian Village on the county's Future Land Use Map may utilize the
34 innovative design provisions in this section to deviate from the requirements in Part 300.
35 Such deviations may include, but are not limited to provisions related to avoidance of
36 impacts, standard buffer widths, allowed uses in buffers and wetlands, mitigation ratios
37 and use of off-site mitigation. The applicant shall demonstrate in a critical area study
38 required pursuant to SCC 30.62A.140:

39 (a) Why the deviation is necessary to implement the policies in the county's
40 comprehensive plan General Policy Plan under objective LU 3.B; and

41 (b) How the innovative development design achieves protection at least equivalent to
42 the treatment of the functions and values of the critical area(s) which would be obtained
43 by applying the standard prescriptive measures contained in Part 300.

Section 9. Snohomish County Code Chapter 30.63C, last amended by Amended Ordinance No. 06-061 on August 1, 2007, is repealed.

Section 10. A new chapter of Snohomish County Code is adopted to read:

Chapter 30.63C
Low Impact Development

30.63C.010 Purpose.

30.63C.020 Applicability.

30.63C.025 Projects performed under authority of the director of the department of public works or county engineer.

30.63C.030 Low impact development best management practices.

30.63C.040 Use of low impact development in Little Bear Creek Urban Growth Area expansion areas.

30.63C.050 Low impact development pre-application submittal meetings.

30.63C.060 Code modifications and EDDS deviations – general.

30.63C.070 Approval authority.

30.63C.080 Code modifications and approval criteria.

30.63C.090 EDDS deviations and approval criteria.

30.63C.010 Purpose.

The purpose of this chapter is to facilitate, and in some instances require, the use of low impact development (LID) best management practices (BMPs).

30.63C.020 Applicability.

This chapter applies to all development projects that are required or designed to use LID BMPs to meet the stormwater management requirements of chapter 30.63A SCC. Applicants that have applications vested on or before June 28, 2006, may request the use of the provisions of this chapter without losing their vested rights.

30.63C.025 Projects performed under authority of the director of the department of public works or county engineer.

For projects performed under the authority of the director of the department of public works or the county engineer, compliance with this chapter may be achieved pursuant to SCC 30.63B.100.

30.63C.030 Low impact development best management practices.

(1) LID BMPs from the following sources may be used to meet the requirements of chapter 30.63A SCC:

(a) LID BMPs in Appendix I-A of the Drainage Manual; and

(b) Other BMPs approved by the Washington State Department of Ecology and the department that are adopted as LID BMPs through the rulemaking process in chapter 30.82 SCC.

(2) LID BMPs used to meet the requirements of chapter 30.63A SCC shall only be eligible for stormwater modeling credits consistent with Volume III and Appendix III-C of the Drainage Manual.

30.63C.040 Use of low impact development in Little Bear Creek Urban Growth Area expansion areas.

(1) New development or redevelopment, excluding single-family residential building permits, proposed within any portion of a Southwest UGA expansion area approved on or after December 20, 2006, that is located in the Little Bear Creek Watershed shall, when site conditions allow, use the LID BMPs identified in SCC 30.63C.030 to meet the stormwater management requirements of chapters 30.63A SCC.

(2) If site conditions prevent the exclusive use of approved LID BMPs, conventional stormwater management strategies and techniques shall be used in conjunction with all feasible LID BMPs identified in SCC 30.63C.030 to meet the requirements of chapter 30.63A SCC.

30.63C.050 Low impact development pre-application submittal meetings.

(1) All permit applicants, except those submitting single-family residential building permits, that propose the use of stormwater modeling credits, or request a code modification or an EDDS deviation in order to use LID BMPs pursuant to SCC 30.63C.060 through 30.63C.090, shall participate in a pre-application submittal meeting.

(2) All permit applicants not specifically excluded in SCC 30.63C.050(1) that propose LID BMPs to meet the requirements of chapter 30.63A SCC are encouraged to participate in a pre-application submittal meeting.

(3) The director may waive a pre-application meeting required under SCC 30.63C.050(1) upon written request by the applicant, if the director determines in writing that the pre-application meeting would serve no useful purpose based upon the circumstances outlined in the request.

30.63C.060 Code modifications and EDDS deviations – general.

(1) Requests for code modifications and EDDS deviations permitted under this chapter may be granted when the following criteria are met:

(a) The requestor seeks a modification from one of the code provisions listed in SCC 30.63C.080(1) or a deviation from the EDDS pursuant to SCC 30.63C.090(1);

(b) The requested code modification or EDDS deviation is necessary to implement a LID BMP identified in SCC 30.63C.030(1); and

(c) The requested code modification meets the criteria established in SCC 30.63C.080(2) or the EDDS deviation meets the criteria established in SCC 30.63C.090(2).

(2) When a code modification or an EDDS deviation is granted pursuant to this chapter, no other waiver, modification or deviation related to the code provision or EDDS provision for which the deviation or modification is granted shall be required under any other provision of this title.

(3) A request for a code modification or an EDDS deviation under this chapter shall be submitted on forms approved by the appropriate department. All code modification requests shall demonstrate how the criteria in SCC 30.63C.080(2) are met and all EDDS deviation requests shall demonstrate how the criteria in SCC 30.63C.090(2) are met. All requests for code modifications under this chapter for a development proposal shall be combined in a single request when feasible. All requests for EDDS deviations under this chapter for a development proposal shall be combined in a single application when feasible.

(4) Fees for code modification and EDDS deviation requests under this chapter are established in SCC 30.86.515 and 30.86.710. Fees shall be paid at the time the request is submitted. Requests for code modifications under this chapter combined in a single application shall require the payment of only one modification fee. Requests for EDDS deviations under this chapter combined in a single request shall require the payment of only one deviation fee.

30.63C.070 Approval authority.

(1) The director is authorized to approve, approve with conditions, or deny requests for code modifications from certain county code provisions pursuant to SCC 30.63C.080. The county engineer is authorized to approve, approve with conditions, or deny requests for certain deviations from the EDDS pursuant to SCC 30.63C.090. The decision of the director on a code modification request and the decision of the county engineer on an EDDS deviation request is final and is not appealable to the hearing examiner.

(2) As a condition of approval for modifications and deviations under this chapter, the county may require adoption of covenants and restrictions and the establishment or grant of tracts or easements necessary for access, maintenance and inspection of the LID BMP for which the modification or deviation was approved.

30.63C.080 Code modifications and approval criteria.

(1) An applicant may request a modification from the provisions of the following SCC chapters:

- (a) Chapter 30.23 SCC, General development standards - Bulk regulations;
- (b) Chapter 30.24 SCC, General development standards - Roads and access;
- (c) Chapter 30.25 SCC, Landscaping;

- (d) Chapter 30.26 SCC, Parking;
- (e) Chapter 30.42B SCC, Planned residential development; and
- (f) Subtitle 30.5 SCC, Construction codes.

(2) A request for a modification of the provisions listed in SCC 30.63C.080(1) may be granted when the following criteria in addition to SCC 30.63C.060(1)(a) and (b) are met:

- (a) The modification is consistent with and furthers the purposes of the stormwater regulations set forth in SCC 30.63A.100;
- (b) The modification does not result in significant adverse environmental impacts;
- (c) The modification does not adversely impact the public health, safety, and welfare;
- (d) The modification is consistent with generally accepted engineering and design criteria; and
- (e) The modification will result in one or more of the following:
 - (i) Innovative site design;
 - (ii) Increased on-site stormwater retention using a variety of vegetation and landscape conditions;
 - (iii) Retention or re-creation of original natural habitat conditions over a significant portion of the site;
 - (iv) Improved on-site water quality beyond that required by current applicable regulations; or
 - (v) Retention or re-creation of pre-development and/or natural hydrologic conditions, and retention or re-creation of forested watershed conditions.

30.63C.090 EDDS deviations and approval criteria.

(1) An applicant may request a deviation from any chapter of the EDDS, except chapter 5, to facilitate the use of LID BMPs.

(2) A request for an EDDS deviation necessary to facilitate the use of LID BMPs may be granted when the deviation criteria in EDDS section 1-05 and the following deviation criteria in addition to SCC 30.63C.060(1)(a) and (b) are met:

- (a) The deviation is consistent with and furthers the purposes of the stormwater regulations set forth in SCC 30.63A.100;
- (b) The deviation does not result in significant adverse environmental impacts;
- (c) The deviation does not adversely impact the public health, safety, and welfare;
- (d) The deviation is consistent with generally accepted engineering and design criteria; and
- (e) The deviation will result in one or more of the following:
 - (i) Innovative site design;
 - (ii) Increased on-site stormwater retention using a variety of vegetation and landscape conditions;
 - (iii) Retention or re-creation of original natural habitat conditions over a significant portion of the site;
 - (iv) Improved on-site water quality beyond that required by current applicable regulations; or

1 (v) Retention or re-creation of pre-development and/or natural hydrologic
2 conditions, and retention or re-creation of forested watershed conditions.
3

4 Section 11. Effective date. This ordinance shall become effective September 30,
5 2010.
6

7 Section 12. Severability. If any section, sentence, clause or phrase of this
8 ordinance is held to be invalid or unconstitutional by the Growth Management Hearings
9 Board ("Board"), or a court of competent jurisdiction, such invalidity or unconstitutionality
10 shall not affect the validity or constitutionality of any other section, sentence, clause or
11 phrase of this ordinance. Provided, however, that if any section, sentence, clause or
12 phrase of this ordinance is held to be invalid by the Board or court of competent
13 jurisdiction, then the section, sentence, clause or phrase in effect prior to the effective
14 date of this ordinance shall be in full force and effect for that individual section,
15 sentence, clause or phrase as if this ordinance had never been adopted.
16

17
18 PASSED this 9th day of June, 2010.
19
20

21 SNOHOMISH COUNTY COUNCIL
22 Snohomish County, Washington
23

24 
25 _____
26 Chairperson

27 ATTEST:

28 
29 _____
30 Asst. Clerk of the Council
31

32
33
34
35 (x) APPROVED
36 () EMERGENCY
37 () VETOED
38

39 
40 _____
41 County Executive
42 Date 6/21/10 AARON REARDON
43 County Executive
44

41 ATTEST:

42 
43 _____
44

Approved as to form:

Deputy Prosecuting Attorney